

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BEVERLY ADKINS, CHARMAINE WILLIAMS,
REBECCA PETTWAY, RUBBIE McCOY,
WILLIAM YOUNG and MICHIGAN LEGAL
SERVICES, on behalf of themselves and all others
similar situated,

Plaintiffs,

-against-

MORGAN STANLEY, MORGAN STANLEY &
CO. LLC, MORGAN STANLEY ABS CAPITAL I
INC., MORGAN STANLEY MORTGAGE
CAPITAL INC., and MORGAN STANLEY
MORTGAGE CAPITAL HOLDINGS LLC,

Defendants.

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CASE NO. 12-cv-7667

Hon. Harold Baer

JOINT MOTION FOR ADOPTION OF REVISED SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16(b)(4), the Parties respectfully request that the Court amend the Pretrial Scheduling Order entered on January 4, 2013, in order to correct a drafting error and to reallocate time within the existing discovery period.¹ The grounds for this motion are set forth below.

1. On December 28, 2012, the Parties submitted a Stipulated Pretrial Scheduling Order to this Court. The Parties intended that certain of the case events would be counted from the due dates for Plaintiffs' motion for class certification and Defendants' opposition to the motion for

¹ Defendants today filed a motion to stay this matter pending the Supreme Court's decision in *Township of Mount Holly v. Mount Holly Gardens Citizens in Action, Inc.*, No. 11-1507 (U.S. June 17, 2013), in which the Court will consider whether disparate impact claims are cognizable under the Fair Housing Act. The motion asks, in the alternative, for certification of the Court's July 25, 2013 Order for appeal under 28 U.S.C. § 1292(b). Plaintiffs oppose the request. Defendants join this motion for modification of the Scheduling Order to the extent that the Court denies their motion.

class certification, which were Event # 9 and Event # 11, respectively, in the proposed order submitted to this Court. However, the proposed order inadvertently referred to “Event # 8” and “Event # 10” instead, and these drafting errors, which the Parties regret, meant that the proposed schedule did not accurately reflect the Parties’ intent.

2. As a result of the above, the Scheduling Order entered by this Court on January 4, 2013 contained scheduling inconsistencies² that the Parties now seek to correct, while preserving the length of the overall case calendar that the Court set forth.

3. The Parties propose the revised schedule on the following page. This schedule maintains the same 12-month period between the decision on the motion to dismiss and the close of class certification briefing that this Court ordered in the previous schedule. Further, the original schedule defined the due dates by reference to time periods instead of using specific calendar dates, given that the decision on the motion to dismiss had not yet been issued. After this Court’s July 25, 2013, decision on the motion to dismiss, the Parties now present specific proposed dates to the Court.


4. This is the Parties’ first request for a modification in the schedule. The Parties make the request with good cause, as set forth above.

² For example, under the existing Order the motion for class certification is due ten months from the decision on the motion to dismiss, while the opposition to that motion, erroneously counted from Event # 8 instead of Event # 9, is due 165 days from the decision on the motion to dismiss—i.e., more than four months before the class certification motion would be filed.

PROPOSED REVISED PRETRIAL SCHEDULING ORDER

Event	Date
Issuance of written decision on Defendants' Motion to Dismiss	July 25, 2013
Last day to join additional parties as of right	August 26, 2013
Last day to join additional claims	October 23, 2013
Last day to complete pre-class certification, non-expert discovery	January 27, 2014
Plaintiffs' Motion for Class Certification and disclosures of expert witnesses due	March 25, 2014
Plaintiffs to make experts and declarants not previously identified as potential witnesses available for deposition	By April 24, 2014, provided that Defendants may elect to take any depositions through June 9, 2014
Defendants' Opposition to Motion for Class Certification and disclosures of expert witnesses due	June 9, 2014
Defendants to make experts and declarants not previously identified as potential witnesses available for deposition	By July 9, 2014, provided that Plaintiffs may elect to take any depositions through July 24, 2014.
Plaintiffs' Reply in Support of Class Certification Due	July 24, 2014
Parties to meet and confer and file a report to address a further schedule through trial	30 days following a decision on Plaintiffs' Motion for Class Certification
Last day for dispositive motions to be fully briefed	3 months before trial-ready date

IT IS SO ORDERED:


 The Honorable Harold Baer, Jr.
 United States District Judge

Dated: August 6, 2013

Respectfully submitted,

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